

# Board of Port Wardens - Tidal Wetlands, Piers and Shore Erosion Control

## Purpose/Description

The Board of Port Wardens is a 5 member commission appointed by the Mayor, charged with reviewing shoreline construction proposals for impacts on public waters and the water bottom. The purpose of the Port Wardens review process is to minimize these impacts and maintain ecologic viability of the city's waterways.



Both the state of Maryland and the federal government have permit processes regulating any activity undertaken below mean high water. The City of Annapolis also has a separate permitting procedure which requires a mandatory public hearing before the Board of Port Wardens. Federal and state approval must be received as a condition of the issue of a City permit.

Activities regulated by the Board of Port Wardens include: all dredging and filling, discharging of stormwater, and placement of any structure or material below mean high water, including piers, pilings, bulkheads, revetments and boat ramps. Any proposal to alter a tidal wetland must demonstrate that there is no practicable alternative to the alteration, that wherever possible, impact has been avoided and minimized, and that any wetlands destroyed are to be mitigated.

## Authority

Both the federal and state governments claim jurisdictional authority for activities impacting tidal wetlands, public waters and submerged land. Regulations governing construction within tidal wetlands and below mean high water are found in the Maryland Wetlands Act, Amended and the Federal Clean Water Act, Amended, Section 404. Some projects may receive automatic approval of federal and state authorities with the approval of the city of Annapolis (through the Port Wardens process).

The city regulations governing construction within the waters of the city of Annapolis are found in the Annapolis City Code and Charter, Chapter 15, Harbors and Waterfront Areas.

## Submittal Requirements

Complete Corps of Engineers (COE) application must be submitted which will be jointly reviewed by the Department of Natural Resources, Wetlands Division including:

1. An inventory of any wetlands, submerged aquatic vegetation, oyster bars or spawning grounds impacted by the proposed construction.
2. A scaled overhead view of the project with a verbal description.
3. A cross section of any construction proposed.
4. A description of materials to be used for any construction.
5. List of adjacent property owners.
6. Identification of a fixed object on shore for reference.
7. Identification of a spoil site for dredging permit applications only.
8. Other information, if deemed necessary by city staff.

Complete Board of Port Wardens application must be submitted including all the items required for the joint Corps of Engineers/Department of Natural Resources application as listed above and:

9. A 1:40 scale plan showing the proposed project in relation to adjacent properties and existing in-water structures and lateral lines.
10. A 1:200 scale map of the project in relation to the city of Annapolis harbor lines.

#### Steps of the Application Process

11. The applicant meets with the Department of Neighborhood and Environmental Programs staff to discuss permit requirements and application procedures for city, state and federal regulations.
12. The applicant submits the application including a building or grading permit application, if necessary to the Department of Neighborhood and Environmental Programs.
13. Concurrently, the applicant submits a complete Corps of Engineers form which is available at the Corps of Engineers, Baltimore District Office or the Department of Natural Resources, Wetlands Division to the Corps of Engineers or the Department of Natural Resources.
14. The Department of Neighborhood and Environmental Programs distributes the application to other agencies for review, i.e. Department of Planning and Zoning, Fire, if deemed necessary.
15. The Board of Port Wardens holds a public hearing on the application. The applicant must be present at this hearing, in order for the application to be heard.
16. The Board of Port Wardens approves or disapproves the application.
17. After 30 days, with Board of Port Wardens approval, the Department of Neighborhood and Environmental Programs may issue a permit for the project pending approval from the Corps of Engineers and Department of Natural Resources.

#### Processing Time

The length of time necessary to complete the Board of Port Wardens review process varies according to the size, scope and complexity of the project. Generally, from the date of submittal of the two applications, the review process requires a minimum of 75 days to complete.

Applications to the Board of Port Wardens must be received by the Department of Neighborhood and Environmental Programs at least six weeks prior to the scheduled hearing which is held on the fourth Tuesday of each month. If the application is approved, there is a mandatory 30 day period to allow for appeals. If, after the expiration of the appeal period the application remains unchallenged, the city permit may be issued provided all state and federal approvals have been received by the applicant and copies presented to the Department of Neighborhood and Environmental Programs.

The state and federal permitting authorities have 45 days from the receipt of the application to determine if the application is complete for processing. The time required to render a decision, however, varies greatly with the complexity and magnitude of the proposed project.



## Board of Port Wardens' Fees

Building Permit Application (non-refundable and collected after the Port Wardens hearing)

Estimated Cost of Site Work	Fee
\$0 to \$500	\$50.00
\$501 to \$2,000	\$100.00
\$2,001 to \$50,000	\$200.00
\$50,001 to \$100,000	\$300.00
\$100,001 to \$200,000	\$400.00
\$200,001 and over	\$500.00

In addition, there is a \$50 hearing administrative fee to be submitted with the application over and above the fees required for a building or grading permit.

### Enforcement and Appeals

Any of the permitting authorities may enforce the terms of their permits. Federal and state agencies may pursue legal remedies. Because federal and state compliance is required as a condition of the city permit, the city effectively may enforce all federal and state, as well as city, requirements. Enforcement by the city may result in a stop work order, fines, denial of final use or even removal of illegal structures.

Appeals to state and federal decisions may be made directly to the permitting agencies, the Department of Natural Resources and the Corps of Engineers. Further appeals may be made to the respective state and federal courts. Appeals to decisions of the Board of Port Wardens are made to the Mayor and City Council, and are based upon information formally presented at the hearing. Appeals must be filed within thirty days of the final decision of the port wardens.

### Other Considerations and Requirements

Because of the potential complexity of acquiring multiple permits, the applicant is encouraged to work closely with the city, state and federal agencies prior to filing an application, in order to determine that all requirements will be adequately addressed. Filing for multiple permits should then be made simultaneously in order to expedite, as much as possible, agency review.

### Contact Person

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